

REMARKS

Claims 1-9 have been allowed. However, Claims 1-9 and 24-29 have been cancelled to prevent the enclosed terminal disclaimer (discussed below) from applying to these claims. Applicant plans to pursue Claims 1-9 and 24-29 at a later date in a continuation application.

Claim 19 has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Examiner has indicated that in Claim 19, line 4, "detector" should be changed to --- extension---. While this change has not been made, Claim 19 has been amended to more clearly recite the radiation sensor element. With reference to amended Claim 19, Applicant points out that the radiation sensor need not be supported by the extension. The extension serves as means to locate the sensor relative to the ear. However, as long as the sensor is positioned to receive radiation passing into the extension from a target area, the sensor can be supported in either the housing or the extension. Based on the foregoing amendments and remarks, reconsideration of Claim 19 is respectfully requested.

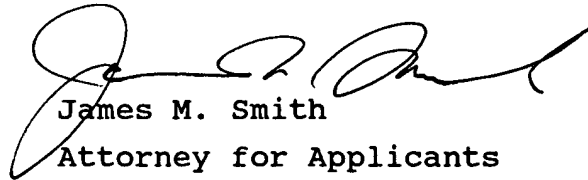
Claims 19-20 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 23 of U.S. Patent No. 4,993,419. Similarly, Claims 21-23 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable

over Claims 7-8 of U.S. Patent No. 5,012,813. Accordingly, a terminal disclosed is enclosed herewith to overcome this rejection. Reconsideration of Claims 19-23 is respectfully requested.

In light of the foregoing amendments and remarks reconsideration of all rejected claims is respectfully requested so that the application may be passed to issue. If it is believed that a telephone conference will expedite the prosecution of the application, the Examiner is invited to call the undersigned.

Please charge Applicant's Attorney's Deposit Account No. 08-0380 for any fees involved in this matter. Two duplicate copies are enclosed for that purpose.

Respectfully submitted,



James M. Smith

Attorney for Applicants

Registration No. 28,043

(617) 861-6240

Lexington, MA

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